



February 26, 2007

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Comments of the State of California on PS Docket No. 06-229, Ninth NPRM

Dear Ms. Dortch:

The State of California as represented by its Department of General Services, Telecommunications Division, hereby submits the following comments regarding the Ninth NPRM.

The State of California (hereinafter "State") does not believe that the nationwide, interoperable, broadband network proposed by the Commission in the Ninth NPRM is a viable alternative for such a network. Items of concern include the following:

*Selection Of The National Licensee*

The State does not concur with the Commission's proposed criteria for selecting the "national licensee". As proposed, the primary focus seems to be heavily based upon the "national licensee" performing a frequency coordination role. The State, however, believes that being the "national licensee" necessarily includes a requirement that the selected entity oversee the design, construction, operation, maintenance and replacement/updating of the nationwide network. These additional requirements are well outside the core competency area of any of the four public safety frequency coordinators.

The State also believes that the "national licensee" must be broadly representative of the public safety community. While each of the four frequency coordinators represents an important segment of this community, there also should be representatives of the law enforcement, fire, and EMS agencies that will be the primary users of the network. The "national licensee", which we believe should be described as the "oversight entity", also should include representatives of the elected and appointed officials that will be responsible for establishing the policies governing operation of the network and may be responsible for providing the funding for its construction, maintenance, and operation. Furthermore, these representatives should come from all levels of government, including Federal, state, local, and tribal governments. Thus, the State believes that the "oversight entity" must be much more broadly representative of the public safety community than is currently characterized by any of the four frequency coordinators.

The "oversight entity" also needs to have the legal authority to make decisions and to ensure that those decisions are properly implemented. The design, construction, and

operation of this nationwide network will require that the “oversight entity” make very critical decisions that also are likely to be very controversial. Thus, the “oversight entity” must be charged with the legal authority to make those decisions and to withstand any challenge. Furthermore, implementation of the network will require a “roll-out plan” that will have some areas and agencies receiving service early-on while other areas and agencies will not receive service for many years. This “roll-out plan” not only will be controversial, it likely will be politically-charged.

For these reasons, the State does not believe that any of the existing four public safety frequency coordinators is an appropriate entity to be the “national licensee” or the “oversight entity”.

#### *Secondary Use Of 700 MHz Narrowband Public Safety Spectrum*

Whereas technological advances may lead to concurrent secondary use of narrowband public safety spectrum that is wholly transparent to primary users, prudence needs to be exercised in applying these technologies. Despite the proposed regulatory protections to primary users, any interference to public safety responders must be deemed unacceptable. Of particular concern is the fact that the device experiencing the interference is the receiver, a non-radiating passive device. The State is unaware of any technology that is capable of identifying the location of a non-radiating device with any certainty. Thus, we are unconvinced that the receivers of a “primary user” can be protected from interference from the transmitter of a “secondary user”.

#### *Adequacy Of 12 MHz Of Broadband Spectrum In Meeting Public Safety’s Anticipated Broadband Needs*

The proliferation of broadband applications and devices in recent years has extended myriad possibilities to public safety service providers. Whereas broadband applications are not in widespread use by public safety today, the State anticipates an exponential escalation of said use, an accompanying reliance on broadband technologies and applications, and an expectation of adequate bandwidth being available to accommodate these devices and applications. Although the State concurs that the 12 MHz of 700 MHz spectrum currently designated as wideband channels should be re-defined to permit channelization as broadband channels, it does not believe that 12 MHz is an adequate amount of spectrum to handle the expected load.

Furthermore, the State is unconvinced that, when divided into a series of broadband channels, 12 MHz of spectrum will yield a sufficient number of channels to permit construction of a wide-area network that is not self-interfering.

*Practicality Of Extending Broadband Coverage To Remote Areas Within Reasonable Timeframes*

While the State agrees that a broadband network is appropriate in populated areas where the number of public safety users and the amount of data traffic is likely to justify its construction, the State is unconvinced that such a network is either technologically or fiscally feasible in geographically large areas of California where the density of public safety users is relatively low. With this regard, the State notes that discussions with representatives of Cyren Call have revealed that their proposal, which claims coverage of 95% of the population, will provide coverage over only about 60% of the geographic land area. The State further notes that the majority of the "uncovered" area is in areas west of the Mississippi River, including large geographic areas of California within which we "routinely" experience large, multi-jurisdictional (including multi-state and multi-national) wildland fires requiring a multi-agency response that may include agencies from both within and outside the state. The State finds it difficult to understand how these events requiring interoperable communications will, by intent, be excluded from a "nationwide" interoperability network.

**Lack of a Funding Strategy for Deployment of the Network**

While the State cannot provide a reliable estimate of the costs associated with constructing a nationwide, broadband, interoperable network, it believes that the overall cost will be measured in the tens (perhaps hundreds) of billions of dollars. Furthermore, once constructed, the network will require an on-going source of funds to cover operational costs, maintenance costs, and replacement/upgrade. The Ninth NPRM does not discuss any mechanism for funding these significant expenses.

For these reasons, the State of California does not believe the Commission's proposal contained in the Ninth NPRM represents a viable alternative for constructing a nationwide, interoperable, data network.

If you have any questions, please contact me at (916) 657-9381

Respectfully submitted,

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